

REMARKS

Claim 1 has been amended to limit the claims to the embodiment in which the coating which adheres to the food portion consists essentially of the at least one starch succinate. Descriptive basis for this amendment may be found in original claim 8 and also in the specification, such as in Example 6 which states that after drying of the succinate film, an additional starch batter may be applied.

Claim 8 has been amended to properly depend from amended claim 1 in that the non-succinated starch is in a separate coating adhered to the succinated starch coating.

New claim 23 has been added which has descriptive basis in claim 8 and the specification, specifically starting at page 6, line 18 and Example 6.

Claims 1-8 and 10-22 have been rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Judkins et al. (US 6,033,697) in view of Carver et al. (6,777,015). Applicants respectfully traverse this rejection.

Judkins discloses coated frozen par-fried potato strips. Judkins coating may include a starch-based batter. However, as admitted by the Examiner, Judkins does not disclose that the starch is succinated nor the additional characteristics of the succinated starch.

The Examiner then uses Carver to remedy the Judkins deficiency. Carver discloses a starch/flour composition which has been co-processed to provide a number of advantages over the simple mix. The starch may be chosen from a wide variety of starches, including succinated starches. However, Carver states that the starch must be coprocessed with flour. In contrast, the succinated coating of the present invention does not include any other materials which are significant. The skilled artisan would not substitute just the succinated starch of Carver for the starch of Judkins as Carver states that it is essential to use a co-processed combination of starch and flour. Thus, the rejection has been overcome.

Claims 1-8 and 10-20 have been rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Keijibets (US 6,635,294) in view of Carver et al. (6,777,015). Applicants respectfully traverse.

Keijibets discloses deep-fried products which contain a flour coating. Flour is an essential component of the coating, although it may also contain starch. As amended, the coating adhered to the food portion does not contain any significant materials other than starch (e.g., flour) and the rejection has been overcome.

Claims 1, 2 and 7 have been rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Shi, et al. (US 2003/0099744). Applicants respectfully traverse. As previously argued, Shi discloses glazing food using a converted starch. The starch may be modified using any chemical modification, specifying that particularly useful starches are acetylated, hydroxyalkylated, phosphorylated, succinated and substituted succinate derivatives. However, modification is only an optional step and succinated starch esters just one of the possible modifications with none of the examples showing such succinated starches.

Claim 1 of the present application is directed to a product-by-process claim in that the starch succinate derivative is adhered to the food and is *subsequently* fried or par-fried.” [emphasis added]. The order of the steps results in a different product as if the food portion is fried and then the starch succinate is adhered to the fried food, the product will have a higher fat content than that of the presently claimed composition. Thus, not only does the order of these steps change the product, but the order also distinguishes the present invention from Shi.

The Examiner has failed to consider the process limitations of claim 1 (that the food portion is coated and then subsequently fried or par-fried). The process limitations of the claims need to be considered to the extent that they provide a different product. Examples 2 and 3 show that French fries which have been coated with the claimed starch differ from those in which no starch has been added prior to frying in that there is a reduced fat level. Although no comparison is made with French fries which have been coated with starch after

frying, the skilled artisan would recognize that adding starch after frying would not reduce the fat level as there is no further addition of (exposure to) fat.

Applicants respectfully request that the Examiner specifically address the above arguments, particularly that the process is relevant in that a different composition results dependent upon whether the product is fried before or after the coating is applied. Applicants maintain that the rejection in view of Shi has been overcome.

In view of the foregoing, Applicants submit the Application is now in condition for allowance and respectfully requests early notice to that effect. Election by the Applicants not to address each and every statement made by the Examiner does not imply agreement with any unaddressed statement.

Respectfully submitted,

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